



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 30, 1995

Ms. Kari A. Hernandez
Assistant City Attorney
The City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901-1196

OR95-1330

Dear Ms. Hernandez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 36970.

The City of El Paso (the "city") has received a request for certain records from the Crime Victims Compensation Division of the Office of the Attorney General (the "attorney general"). You contend that the requested records are confidential pursuant to section 552.101 of the Government Code in conjunction with section 51.14(d) of the Family Code and section 773.091(b) of the Health and Safety Code.

We understand that the attorney general seeks the information pursuant to article 56.38 of the Code of Criminal Procedure. Article 56.38, which was amended in the last legislative session, provides in relevant part

(d) On request by the attorney general and not later than the 14th business day after the date of the request, a law enforcement agency *shall release* to the attorney general all reports, including witness statements and criminal history record information, for the purpose of allowing the attorney general to determine whether a claimant or victim qualifies for an award and the extent of the qualification.

Act of May 29, 1995, 74th Leg., R.S., ch. 779, § 1, 1995 Tex. Sess. Law Serv. 4030, 4035 (Vernon) (emphasis added).

You contend, based on the old language of the statute, that although the attorney general may request certain information, the city is not required to provide it.¹ You also argue that the attorney general is not authorized to obtain the records under the access provisions of section 51.14(d) of the Family Code. While we agree with your assertion that section 51.14(d) of the Family Code makes the requested information confidential, it is well settled that confidential information may be transferred between governmental bodies without destroying its confidential nature, if the receiving agency has the authority to obtain it. Open Records Decision No. 516 (1989) at 5. In this instance, the attorney general has the express statutory authority to obtain the requested information. Moreover, we believe that the amended access provision in article 56.38 requires that law enforcement agencies must provide records upon request by the attorney general.

In addition we note that release of the requested records to the attorney general pursuant to article 56.38 is not considered a "public" disclosure so as to destroy the confidential nature of the records. Open Records Decision No. 516 (1989) at 5. The records would remain confidential in the attorney general's possession. See Open Records Decision No. 567 (1990). Furthermore, we believe that article 56.38 merely provides another statutory right of access to these records. You must therefore release the requested information to the attorney general pursuant to article 56.38 of the Code of Criminal Procedure.

Regarding your arguments concerning the Emergency Medical Services records that are confidential pursuant to section 773.091(b) of the Health and Safety Code, we believe that the attorney general also has the express statutory authority to obtain these records under article 56.38 of the Code of Criminal Procedure. See also Health & Safety Code § 773.092(e)(2).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

¹The predecessor access provision in Article 56.38 provided that the attorney general "may . . . request from prosecuting attorneys and law enforcement officers investigations and information to enable the attorney general to determine whether and the extent to which a claimant qualifies for an award." Code Crim. Proc. art. 56.38(c), amended by Act of May 29, 1995, 74th Leg., R.S., ch. 780, § 1, 1995 Tex. Sess. Law Serv. 4030, 4035 (Vernon).

LRD/rho

Ref.: ID# 36970

Enclosures: Submitted documents

cc: Ms. Nancy Sambrano
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(w/o enclosures)